

SECOND REGULAR SESSION

# HOUSE JOINT RESOLUTION NO. 64

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CURTMAN (Sponsor), SCHOELLER, JONES (89), SMITH (150),  
KOENIG, TILLEY, McCAHERTY, HIGDON, MARSHALL, SCHIEBER, ASBURY, BAHR, FUHR,  
GUERNSEY, HOUGHTON AND SCHATZ (Co-sponsors).

4479L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment to article I of the Constitution of Missouri, relating to prohibiting laws interfering with freedom of choice in health care.

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*Be it resolved by the House of Representatives, the Senate concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2012, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 35, to read as follows:

**Section 35. 1. That a law or rule shall not compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system.**

**2. A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.**

**3. Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11           **4. This section does not:**

12           **(1) Affect which health care services a health care provider or hospital is required**  
13 **to perform or provide;**

14           **(2) Affect which health care services are permitted by law;**

15           **(3) Prohibit care provided under workers' compensation as provided under state**  
16 **law;**

17           **(4) Affect laws or regulations in effect as of January 1, 2010;**

18           **(5) Affect the terms or conditions of any health care system to the extent that those**  
19 **terms and conditions do not have the effect of punishing a person or employer for paying**  
20 **directly for lawful health care services or a health care provider or hospital for accepting**  
21 **direct payment from a person or employer for lawful health care services.**

22           **5. As used in this section, the following terms shall mean:**

23           **(1) "Compel", any penalties or fines;**

24           **(2) "Direct payment or pay directly", payment for lawful health care services**  
25 **without a public or private third party, not including an employer, paying for any portion**  
26 **of the service;**

27           **(3) "Health care system", any public or private entity whose function or purpose**  
28 **is the management of, processing of, enrollment of individuals for or payment for, in full**  
29 **or in part, health care services or health care data or health care information for its**  
30 **participants;**

31           **(4) "Lawful health care services", any health-related service or treatment to the**  
32 **extent that the service or treatment is permitted or not prohibited by law or regulation that**  
33 **may be provided by persons or businesses otherwise permitted to offer such services; and**

34           **(5) "Penalties or fines", any civil or criminal penalty or fine, tax, salary or wage**  
35 **withholding or surcharge or any named fee with a similar effect established by law or rule**  
36 **by a government established, created or controlled agency that is used to punish or**  
37 **discourage the exercise of rights protected under this section.**

Section B. Pursuant to chapter 116, RSMo, and other applicable constitutional provisions  
2 and laws of this state allowing the general assembly to adopt ballot language for the submission  
3 of a joint resolution to the voters of this state, the official ballot title of the amendment proposed  
4 in section A of this resolution shall be as follows:

5           "Shall the Missouri Constitution be amended as follows:

6           1. That government may neither penalize citizens for refusing to purchase private  
7 health insurance, nor infringe upon a citizen's right to offer or accept direct  
8 payment for lawful health care services.

9           2. This section shall permit courts to enforce contracts voluntarily entered, and  
10          the General Assembly to regulate the health insurance industry.".

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